

September 27, 2002

To: All Department Heads

From: David E. Janssen
Chief Administrative Officer

CONTRACTING AND PURCHASING: IMPLEMENTATION INSTRUCTIONS FOR THE LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM

On July 23, 2002, the Board of Supervisors approved a Local Small Business Enterprise Preference Program (Local SBE Program). **The requirements of this Program are applicable to solicitations for goods and services issued October 28, 2002 and thereafter**, unless specifically excluded by the Ordinance. The attachment provides implementation instructions, including the Board letter approving the Local SBE Program, the Ordinance, standard solicitation and contract language, revised forms, and reporting requirements. Training will be provided for contracting and purchasing staff prior to the effective date.

If you have any questions, please let me know, or you staff may contact Robert Valdez of the Office of Affirmative Action Compliance, at (213) 974-1393, Kathy Hanks of the Internal Services Department (ISD) Contracting Division, (323) 267-3101 or Joe Sandoval of ISD Purchasing, at (323) 267-2670.

DEJ:LS
MKZ:Nf:nl

Attachment

c: Administrative Deputies
County Contracting Network (via e-mail)
County Purchasing Network (via e-mail)
Chair, Small Business Commission

COUNTY OF LOS ANGELES

LOCAL SMALL BUSINESS ENTERPRISE
PREFERENCE PROGRAM

IMPLEMENTATION INSTRUCTIONS



SEPTEMBER 2002

**LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM
IMPLEMENTATION INSTRUCTIONS**

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EXHIBITS

Exhibit 1: Board Letter and Ordinance for the Local Small Business Enterprise Preference Program

Exhibit 2: Verifying Local SBE Certification Status

Exhibit 3: Calculation of the Local SBE Preference

Exhibit 4: Standard Solicitation Language

Exhibit 5: Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form (rev. 09/18/02)

Exhibit 6: Local SBE Program Standard Contract Language

Exhibit 7: Local SBE Program – Department Data Program Activity Worksheet Format

LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM IMPLEMENTATION INSTRUCTIONS

On July 23, 2002, the Los Angeles County Board of Supervisors approved a Local Small Business Enterprise Preference Program (Local SBE Program) and the effectuating Ordinance, Los Angeles County Code Chapter 2.204. **(Exhibit 1)**. The Ordinance provisions are **applicable effective October 28, 2002** and apply to the procurement of all goods and services, unless specifically excluded. These instructions provide the necessary guidelines and interpretations to permit departments to implement the Local SBE Program and report on results.

1. INTRODUCTION

In adopting the Local SBE Program Ordinance, the Board of Supervisors made a finding that the County should aid and assist, to the maximum extent possible, the interests of local small business concerns in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for procurement of goods or services for the County be placed with such enterprises. The Local SBE Program is a race and gender-neutral program designed to enhance contracting and procurement opportunities for local small businesses within the County of Los Angeles by providing a 5 percent bid price reduction to bids submitted by certified Local SBEs.

The Local SBE Program is modeled on the State of California's small business preference program and utilizes the State's certification of small business status as a requirement for the County's certification of Local SBE status. In addition to State certification, the County's Local SBE Program requires a small business to have its principal office currently located within the County for a period of at least the past 12 months.

Information about the State's small business certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Small Business Certification and Resources Website at <http://www.pd.dgs.ca.gov/smbus/default>. This information would be useful to small businesses seeking information about State certification.

Please note that the County does not certify small businesses. The County certifies that a State-certified small business is a Local SBE as discussed below. Also note that the State's definition of small business is different than the County's definitions of small business applicable to the County's Contractor Jury Service Program and the Living Wage Program.

Department heads are responsible for ensuring departmental staff are aware of and comply with the Local SBE Program requirements, including: 1) providing appropriate notice of the availability of the preference in solicitation and contract documents, 2) applying the preference, when requested by a certified Local SBE, in the selection of a contractor/vendor, 3) notification to the Office of Affirmative Action compliance (OAAC) of any complaints regarding Local SBE Program eligibility violations, and 4) imposition

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of penalties to recoup any preference amount that is determined to have been awarded inappropriately.

OAAC is responsible for verification and certification of contractor eligibility as a Local SBE. OAAC may also recommend sanctions if the certification status is inappropriately claimed and granted to a contractor.

2. CERTIFIED LOCAL SBE

A certified Local SBE is defined as a business which:

- A. Is certified as a small business enterprise by the State of California; and
- B. Has its principal office currently located in Los Angeles County for a period of at least the past 12 months; and
- C. Has been certified by OAAC as meeting the requirements set forth in “A” and “B” above.

3. DESCRIPTION OF THE LOCAL SBE PROGRAM

The Program provides for a 5 percent bid price reduction ("preference") for certified Local SBEs that are registered County vendors whenever a solicitation for goods or services includes a cost component in the selection process. Application of the preference differs depending on the type of solicitation:

- A. For solicitations that are based on the lowest responsive and responsible bid, the preference to be granted to each Local SBE shall be equal to 5 percent of the lowest bid amount.
- B. For solicitations that are based on factors other than just the lowest cost (Requests for Proposals), the preference to be granted to each Local SBE is to 5 percent of the lowest cost proposal up to a maximum of \$50,000. Typically, in contracts for services, cost is only one of several other factors (e.g., qualifications, implementation approach, references, etc.) that are rated in arriving at a winning bid. In these cases, the cost component of each Local SBE's bid will be scored based on their original bid price less the preference amount.
- C. In all cases, the Local SBE Preference shall not exceed \$50,000 for any one solicitation.

4. APPLYING THE PREFERENCE

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Local SBEs must claim the preference when responding to a solicitation and, in order to claim the preference, must be certified as a Local SBE at the time of bid/proposal submission. Small businesses must request Local SBE certification by OAAC and cannot claim the preference until the certification is completed. A small business with a certification "in process" is not eligible for the preference.

OAAC will certify Local SBEs and document certification status. This information will be available to department staff via the County's "Doing Business with Us" Web portal that is accessible through the County's Internet home page as a "Featured Link" to "Bids and RFPs." The Local SBE status verification function will be operational October 28, 2002. Department staff must confirm certification prior to granting the preference.

- **Exhibit 2** provides information about verifying Local SBE certification status. Department staff may contact OAAC at (213) 974-0912 for any questions related to certification.

The 5 percent preference is used only to determine the winning bidder or proposer and does not alter the amount of the resultant contract award. A contract awarded to a Local SBE on the basis of the 5 percent preference will be for the amount of the actual bid or proposal. In no case, however, can the preference amount exceed \$50,000 per solicitation.

- **Exhibit 3** provides examples of how to apply the preference and evaluate the results.

5. EXCLUSIONS

The Local SBE Preference shall not be given under the following County purchases:

- A. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar or related group purchasing organization.
- B. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision.
- C. A purchase card (credit card) purchase pursuant to the Los Angeles County Purchasing Policy and Procedure Manual, Section P-2810 or a successor provision.
- D. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing and Policy Manual, Section A-0300 or a successor provision.
- E. Any contract, funded in whole or part by the federal government, to the extent of any conflict between the requirements imposed by the federal government

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relating to participation in a contract by a minority or women owned business enterprise as a condition of receipt of public funds.

6. RESPONSIBILITIES

Department Staff:

Department staff is responsible for the following:

- A. Understanding the program in order to clearly explain it to vendors.
- B. Including information on the availability of the Local SBE Preference in all applicable solicitations.
 - ❑ **Exhibit 4** provides the standard solicitation language.
 - ❑ **Exhibit 5** provides a copy of the Request for Local SBE Preference Program Consideration and CBE Firm/Organization Information Form. This form replaces the former Firm/Organization Information and the Los Angeles County/Community Business Enterprise Sanctions forms. It includes a section for a small business to request the Local SBE Preference and also requires a signature under penalty of perjury certifying that the information provided is true and accurate.

The form will be sent via e-mail to the Countywide Contracting Network and will be available electronically from Bob Valdez, of OAAC, at (213) 974-1393, or Danny Medrano, of ISD, at (323) 267-2233.
- C. Verifying current Local SBE status prior to applying the Local SBE Preference to each bid/proposal.
- D. Including standard contract language in all contracts awarded to a Local SBE.
 - ❑ **Exhibit 6** provides the standard contract language for any contract with a Local SBE.
- E. Maintaining appropriate documentation for each solicitation where the Local SBE Preference was applied. This includes, but is not limited to: 1) the vendor's request for the preference, 2) verification of current Local SBE status (a printout of the Web site page documenting certification), and 3) the calculation of the preference amount.
- F. Complying with the data reporting requirements (Section 8, below) to track the impact of the Local SBE Program.

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- G. Notifying OAAC of any complaints regarding a vendor's Local SBE eligibility.
- H. Notifying OAAC and County Counsel of its intent to assess sanctions, pursuant to the Local SBE Preference Program Ordinance, prior to assessing any sanctions or penalties.

Office of Affirmative Action Compliance Staff

OAAC staff is responsible for:

- A. Certifying Local SBEs and maintaining appropriate documentation to support such certifications.
- B. Maintaining and updating the on-line Local SBE certification status in the County database.
- C. Investigating complaints of Local SBE eligibility violations.
- D. Notifying departments of vendor violations of the Local SBE certification/eligibility requirements and making recommendations as to the imposition of sanctions.

Internal Services Department Staff

ISD Staff is responsible for:

- A. Compiling and reporting countywide data on Local SBE Program activity and results.
- B. Maintaining the "Doing Business with Us" Internet Web site to permit departments to verify Local SBE certification status.

7. SANCTIONS AND PENALTIES

The Local SBE Ordinance includes a provision that no person or business shall knowingly, and with intent to defraud, attempt to obtain, or maintain, certification as a Local SBE. When a department becomes aware that a business may have inappropriately claimed and received the Local SBE Preference, the department shall conduct a review of the situation with the business to ascertain the status of the business. The department shall advise the business in writing of the department's determination and, in the event that the claim was inappropriate, the obligation of the business to:

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- A. Repay any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded to the next lowest responsible, responsive bidder or the highest scored proposer.
1. The department should notify the business in writing that the repayment amount will be withheld from any future payment(s) due to the business from the County.
 2. If no further payment is due to the business, or the contract is revenue generating, the written notice shall include an invoice for payment of the amount due to the County.
- B. In addition to "A" above, pay a penalty in an amount of not more than 10 percent of the amount of the contract payments received during the period that the business did not meet the definition of a Local SBE. The penalty amount shall be determined as follows:

Penalty Assessment Determination

Reason	Penalty Percentage
Status change: business notified the State, but not the County and accepted contract payment(s).	3%
Status change: business did not notify the State or the County and accepted contract payment(s).	6%
Business furnished incorrect supporting information or withheld information in order to obtain Local SBE certification and accepted contract payment(s).	10%

- C. Be subject to the provisions of Chapter 2.202 of the County Code (Determinations of Contractor Non-Responsibility and Contractor Debarment). A business that refuses to repay any amount due to the County resulting from a certification violation(s) or falsely obtains the Local SBE preference could be subject to a debarment proceeding.

8. DATA REPORTING

In addition to being responsible for ensuring compliance with Program requirements, departments will participate in a joint effort with ISD to gather and report Local SBE Program activity and results. These requirements include designation of a department Local SBE Program data coordinator to manage the tracking of the department's activity and submission of that information in an Excel spreadsheet format to the Local SBE Program data program coordinator at ISD on a quarterly basis.

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Department Local SBE Program Data Coordinators

Each department will designate a Local SBE Program data coordinator to manage the tracking of the department's Local SBE Program activity and submit quarterly activity reports.

Quarterly Activity Reports and Required Format

On a quarterly basis, department Local SBE Program data coordinators will submit reports to ISD on solicitations in which the Local SBE Program preference was applied which will include:

- Number of solicitations where preference was applied.
- Number of awards over low bid based on the preference.
- Differential in cost when the awarded bid was based on the preference.

To assist Departments in tracking this data and facilitate compilation of the information countywide, ISD has developed a mandatory spreadsheet format in Microsoft Excel, which must be used by departments for report submission. Departments can request a copy of the file format via e-mail, by contacting the ISD Local SBE Program data coordinator, Christa Ladd, at cladd@co.la.ca.us.

- **Exhibit 7, Local SBE Program - Department Activity Worksheet Format**, is the required Excel file format with the mandatory data elements for tracking and reporting Local SBE Program activity.

File Naming Convention

Standard file naming conventions are required to ensure that Program Activity Worksheets submitted by departments can be compiled and consistently reported for each specific quarter. The following file name format is required:

Department Name_YearQuarter(YYYYQR)_SBE, plus the file extension.

Example:

An ISD Local SBE Department Activity Worksheet file for the 3rd quarter of 2002 would be named: ISD_2002Q3_SBE.XLS

Activity Worksheet Report Due Dates

The first Activity Worksheet report is for the period October 28, 2002 through December 31, 2002 and is due 15 days following the end of the quarter, and 15 days following the end of each subsequent quarter, as follows:

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Quarterly Period

January 1 through March 31
April 1 through June 30
July 1 through September 30
October 1 through December 31

Report Due By

April 15
July 15
October 15
January 15

All departmental spreadsheet files shall be submitted to ISD via e-mail to cladd@co.la.ca.us. The files will be reviewed for the mandatory data elements and promptly returned to the department's Local SBE Program data coordinator for completion/correction, as necessary.

ISD Local SBE Program Data Coordinator

For more information or questions regarding tracking program activity and the preparation and submission of program activity files, please contact the ISD Local SBE Program Coordinator, Christa Ladd, at (323) 267-2577 or e-mail to cladd@co.la.ca.us.

VERIFYING LOCAL SBE CERTIFICATION STATUS

County departments will be able to verify that a vendor is a currently certified Local SBE through the County's "**Doing Business With Us**" Website for posting bids and solicitations (web address: <http://camisvr.co.la.ca.us/lacobids>). (The Website is accessible from the County's Internet Home page as a "Featured Link" to "Bids and RFPs.") To begin the verification process, click "Certified Vendors."

I. Vendor Identification (ID) Number Search:

As all Local SBEs must be registered in WebVen, the Vendor ID number is the primary search tool.

- Select "Vendor Number" from the "Vendor Search" drop down box.
- Enter the vendor's ID number in the text box.
- Press the "Submit" button. The resulting listing includes the Local SBE certification # and the certification expiration date. For additional vendor detail, click on the "Vendor #."
- If no listing is generated for a vendor claiming Local SBE certification, contact OAAC.

The Web site provides additional search capability, as indicated below.

II. Text Search:

- Select "Vendor Name" from the "Search By" drop down box.
- Enter the vendor name, or portion of a name, in the text box and press the "Submit" button to display a listing of the certified Local SBEs matching the search criteria. For additional vendor detail, click on the "Vendor #."

Example:

Enter **serv** in the text search box and press "Submit." This will create a list of Local SBEs that contain **serv** in the name like: "A.W.C. BUILDING SERVICES INC" or "MORGAN SERVICES, INC."

CALCULATION OF THE LOCAL SBE PREFERENCE

Bids: Award is made to the lowest most responsive and responsible bidder.

Bidder	Status	Bid Amount	Preference Adjustment	Bid Calculated After Preference
A	Claims small business status but is not a Local SBE	\$30,750	\$0	\$30,750
B	Does not claim to be a Local SBE	\$28,975	\$0	\$28,975
C	Claims LOCAL SBE status and is a LOCAL SBE	\$29, 870	(\$1,449*)	\$28,421

* For preference calculation purposes: 5 percent of the lowest responsive and responsible bid of \$28,975 (Bidder B) would be \$1,449 (\$28,975 x .05).

Bidder C would be recommended for a contract for \$29,870 (Bidder C's bid amount).

Proposals: Proposals are evaluated and points are awarded based on cost and non-cost components (e.g. approach to providing the services, references, experience, etc). Under this program only the cost component points are adjusted for the preference.

With No Preference

	Proposer A Local SBE	Proposer B Non-Local SBE	Proposer C Local SBE	Proposer D Non-Local SBE
Proposed Cost	\$103,000	\$100,000	\$106,000	\$101,000
Non-Cost Points (maximum of 700)	500	500	420	490
Calculation of Cost Points (maximum of 300) Based on low cost/cost times 300 points	300 points times (\$100,000/\$103,000) = 291	300 points times (\$100,000/\$100,000) = 300	300 points times (\$100,000/\$106,000) = 282	300 points times (\$100,000/\$101,000) =297
Total Points – with no preference	791	800	702	787

CALCULATION OF THE LOCAL SBE PREFERENCE

Adjusted for the Preference

	Proposer A Local SBE	Proposer B Non-Local SBE	Proposer C Local SBE	Proposer D Non-Local SBE
Proposed Cost	\$103,000	\$100,000	\$106,000	\$101,000
Adjustment (5% of \$100k)	(\$5,000)	0	(\$5,000)	0
Adjusted Amount	\$98,000	\$100,000	\$101,000	\$101,000
Non-Cost Points (maximum of 700)	500	500	420	490
Calculation of Cost Points (maximum of 300) Based on low cost / cost x 300 points	300 points times (\$98,000/\$98,000) = 300	300 points times (\$98,000/\$100,000) = 294	300 points times (\$98,000/\$101,000) = 291	300 points times (\$98,000/\$101,000) = 291
Total Points – with preference	800	794	711	781

- Proposer B is the lowest cost and received the maximum points. Cost points awarded to the other Proposers are calculated based on the following formula: (Proposer B's costs divided by Proposer's cost) times the maximum points for cost.
- Proposer B was the lowest cost proposal and a non-Local SBE. Therefore, the cost points must be re-apportioned after application of the 5 percent calculation of Proposer B's proposed cost amount of \$100,000. Five percent of \$100,000 is \$5,000.
- All proposal costs from Local SBEs will be reduced by this amount (\$5,000). After arriving at new "evaluation" amounts for the Local SBEs, new cost points must be apportioned, using the new "evaluation" amounts as set forth below. Note: points established for other criteria for each Proposer do not change. Only the points associated with the cost component are re-apportioned.
- The highest scored proposal is now the proposal received from Proposer A, a Local SBE. The contract award amount will be Proposer A's original proposed amount (\$103,000), not the amount used for evaluation purposes.
- The Local SBE Program's additional cost in this example is \$3,000. This amount would be reported in the quarterly activity report.

LOCAL SBE PROGRAM – STANDARD SOLICITATION LANGUAGE

The following language shall be included in any solicitation subject to the Local SBE Program Ordinance.

Local Small Business Enterprise Preference Program

“In evaluating bids (proposals), the County will give preference to businesses that are certified by the County as a Local Small Business Enterprise (Local SBE), consistent with Chapter 2.204 of the Los Angeles County Code. A Certified Local SBE is a business: 1) certified by the State of California as a small business enterprise; 2) having its principal office currently located in Los Angeles County for a period of at least the past 12 months; and 3) certified by Office of Affirmative Action Compliance as meeting the requirements set forth in 1 and 2 above. Certified Local SBEs must request the SBE Preference in their solicitation responses and may not request the preference unless the certification process has been completed and certification affirmed. County must verify Local SBE certification prior to applying the preference. Sanctions and financial penalties may apply to a business that knowingly, and with intent to defraud, seeks to obtain or maintain certification as a certified Local SBE.

Information about the State's small business enterprise certification regulations is in the California Code of Regulations, Title 2, Subchapter 8, Section 1896 et seq., and is also available on the California Department of General Services Office of Small Business Certification and Resources Web site at <http://www.pd.dgs.ca.gov/smbus/default>.”

LOCAL SBE PROGRAM – STANDARD CONTRACT LANGUAGE

The following language shall be included in any contract with a Local SBE:

Local Small Business Enterprise Preference Program

“This Contract is subject to the provisions of the County’s ordinance entitled Local Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.

Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

If Contractor has obtained County certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County’s costs would have been if the contract had been properly awarded;
2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply if Contractor is no longer eligible for certification as a result in a change of their status and Contractor failed to notify the State and the County’s Office of Affirmative Action Compliance of this information.”

LOCAL SBE PROGRAM – DEPARTMENT DATA PROGRAM ACTIVITY WORKSHEET FORMAT

The table below provides the required format and data elements for submission of quarterly Local SBE Program - Department Program Activity Worksheets to the ISD Local SBE Program data coordinator via e-mail to cladd@co.la.ca.us.

Local SBE Program – Department Program Activity Worksheet Format	
Field	Description
Solicitation Number	Mandatory – Department's solicitation number from the Bid Web page posting.
Solicitation Description	Mandatory - Brief description of solicitation
Vendor Name	Mandatory - Vendor Name for each solicitation entry
Vendor Number	Mandatory – Vendor Number must come from the County's Financial System (CAPS)
Solicitation Amount	Mandatory – Amount indicated by each vendor for the solicitation
Local SBE Applied	Optional – Indicate (X) where the SBE preference was applied to the vendor's solicitation bid
Adjusted Bid Amount	Optional – Calculated field adjusting the vendor's solicitation bid where the Local SBE preference has been indicated
Winning Solicitation	Mandatory – Indicate (X) winning solicitation
CAPS Award Number For Winning Solicitation	Mandatory – Indicate award number of winning solicitation. Award number must come from the County's Financial System (CAPS)

The Excel spreadsheet sample is shown below. Department Local SBE Program data coordinators can request a copy of the Excel file via an e-mail request to cladd@co.la.ca.us.

Solicitation Number from Bid Web page Posting	Solicitation Description	Vendor's Name	Vendor Number	Solicitation Amount	Lowest Bid	Low Bid Preference Amount	Local SBE Preference Applied	Adjusted Bid Amount (Column E - G)	Winning Solicitation	CAPS Award # for Winning Solicitation
890992	Tires - Heavy duty	Toyo	77777701	\$1,000.00	X	\$50.00		\$1,000.00		
		Cosco	55555501	\$1,035.00			X	\$985.00	X	PXXX123
		Price Club	99999901	\$1,275.00				\$1,275.00		
		Discount Tire	44444401	\$1,133.00			X	\$1,083.00		
111235	Custodian Services	Janitors Are Us	55555201	\$25,661.00	X	\$1,283.05		\$25,661.00		
		Quick Clean	67894501	\$26,200.00			X	\$24,916.95	X	PZZZ321
		ACME Cleaners	36598703	\$26,500.00				\$26,500.00		
		Plus Cleaners	25491202	\$27,500.00				\$27,500.00		
		Expert Cleaners	97425101	\$27,999.00			X	\$26,715.95		